



DEPARTMENT OF COMMERCE

International Trade Administration

[A-580-912]

Acrylonitrile-Butadiene Rubber from the Republic of Korea: Final Affirmative Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances, in Part

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) determines that acrylonitrile-butadiene rubber (AB rubber) from the Republic of Korea (Korea) is being, or is likely to be, sold in the United States at less than fair value (LTFV). The period of investigation is April 1, 2020, through March 31, 2021.

DATES: Applicable [Insert date of publication in the *Federal Register*].

FOR FURTHER INFORMATION CONTACT: Melissa Porpotage, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-1413.

SUPPLEMENTARY INFORMATION:

Background

On February 2, 2022, Commerce published its *Preliminary Determination*.¹ Commerce invited interested parties to comment on the *Preliminary Determination*.

For a complete description of the events that followed the *Preliminary Determination*, see the Issues and Decision Memorandum.² The Issues and Decision Memorandum is a public

¹ See *Acrylonitrile-Butadiene Rubber from the Republic of Korea: Preliminary Affirmative Determination of Sales at Less Than Fair Preliminary Affirmative Determination of Critical Circumstances, in Part, Postponement of Final Determination, and Extension of Provisional Measures*, 87 FR 5796 (February 2, 2022) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum.

² See Memorandum, “Issues and Decision Memorandum for the Final Results of the Antidumping Duty Investigation of Acrylonitrile-Butadiene Rubber from the Republic of Korea,” dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

document and is available electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <https://access.trade.gov/public/FRNoticesListLayout.aspx>.

Scope Comments

On January 26, 2022, we issued the Preliminary Scope Decision Memorandum.³ Interested parties submitted case and rebuttal briefs concerning the scope of this investigation.⁴ For a summary of the product coverage comments and rebuttal responses submitted to the record of this investigation, and accompanying analysis of all comments timely received, *see* the Final Scope Memorandum.⁵ Based on the comments received from interested parties, we are revising the scope of this investigation as it appeared in the *Preliminary Determination*.⁶ The scope in the Appendix reflects these changes.

Scope of the Investigation

The product covered by this investigation is AB rubber from Korea. For a complete description of the scope of this investigation, *see* Appendix I.

Verification

Commerce was unable to conduct on-site verification of the information relied upon in making its final determination in this investigation. However, we took additional steps in lieu of

³ *See* Memorandum, "Preliminary Scope Decision Memorandum," dated January 26, 2022 (Preliminary Scope Decision Memorandum).

⁴ *See* ARLANXEO Emulsion Rubber France S.A.S.'s Letter, "Scope Brief," dated February 25, 2022; *see also* Zeon Chemicals L.P. and Zeon GP, LLC (collectively, the petitioner)'s Letter, "Petitioner's Rebuttal Scope Brief," dated March 4, 2022.

⁵ *See* Memorandum, "Antidumping Duty Investigations of Acrylonitrile-Butadiene Rubber from France, the Republic of Korea, and Mexico: Final Scope Decision Memorandum," dated concurrently with, and hereby adopted by, this notice (Final Scope Memorandum).

⁶ *See Preliminary Determination*, 87 FR at 5792. Specifically, we added language to the scope that clarified that AB rubber products that include a third component that is not methacrylic acid or isoprene are not covered by the scope. *See* Final Scope Memorandum.

an on-site verification to verify the information relied upon in making this final determination, in accordance with section 782(i) of the Tariff Act of 1930, as amended (the Act).⁷

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties in this investigation are discussed in the Issues and Decision Memorandum. A list of the issues raised in the Issues and Decision Memorandum is attached to this notice as Appendix II.

Methodology – Adverse Facts Available (AFA)

For purposes of this final determination, we relied, in part, on facts available pursuant to section 776(a)(2)(A) of the Act. As discussed in the Issues and Decision Memorandum, because one respondent, LG Chemical, Ltd. (LG Chem), did not act to the best of its ability in responding to our requests for information, we drew adverse inferences, where appropriate, in selecting from among the facts otherwise available, pursuant to section 776(b) of the Act. LG Chem did not respond to Commerce’s initial antidumping duty questionnaire and we have continued to use an adverse inference in the selection of facts available for determining the dumping rate for this company, pursuant to section 776(d) of the Act. For further information, see the section “Use of Adverse Facts Available” in the accompanying Issues and Decision Memorandum.

Changes from the Preliminary Determination

Based on our analysis of the comments received, we made certain changes to the margin calculation for Kumho Petrochemical Co., Ltd. (Kumho) since the *Preliminary Determination*. See the Issues and Decision Memorandum for a discussion of these changes.

All-Others Rate

Section 735(c)(5)(A) of the Act provides that the estimated weighted-average dumping margin for all other producers and exporters not individually investigated shall be equal to the weighted average of the estimated weighted-average dumping margins established for exporters

⁷ See Commerce’s Letter, In Lieu of Verification Questionnaire, dated February 14, 2022; see also Kumho’s Letter, “Response to the Verification Questionnaire,” dated February 22, 2022.

and producers individually investigated excluding rates that are zero, *de minimis*, or determined entirely under section 776 of the Act. In this investigation, Commerce assigned an estimated weighted-average dumping margin based entirely on facts available, *i.e.*, under section 776 of the Act, to LG Chem. Therefore, the only estimated weighted-average dumping margin that is not zero, *de minimis*, or based entirely on facts otherwise available is the margin calculated for Kumho. Thus, the estimated weighted-average dumping margin calculated for Kumho is the margin assigned to all other producers and exporters, pursuant to section 735(c)(5)(A) of the Act.

Final Determination of Critical Circumstances, in Part

For the *Preliminary Determination*, in accordance with section 733(e) of the Act and 19 CFR 351.206, Commerce found that critical circumstances exist, in part, with respect to imports of AB rubber from Korea. Our final determination remains unchanged. Accordingly, pursuant to section 735(a)(3) of the Act and 19 CFR 351.206, we continue to find that critical circumstances exist for LG Chem and companies covered by the “all others” rate, but do not exist for Kumho.

Final Determination

Commerce determines that the following estimated weighted-average dumping margins exist:

Exporter or Producer	Estimated Weighted-Average Dumping Margin (percent)
Kumho Petrochemical Co., Ltd.	18.80
LG Chemical, Ltd.	35.31
All Others	18.80

Disclosure

Commerce intends to disclose its calculations performed in this final determination within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

Continuation of Suspension of Liquidation

Consistent with the *Preliminary Determination*, Commerce will instruct U.S. Customs and Border Protection (CBP) to continue the suspension of liquidation of all entries of subject merchandise, as described in Appendix I, entered, or withdrawn from warehouse, for consumption on or after February 2, 2022, the date of publication in the *Federal Register* of the affirmative *Preliminary Determination*. Further, in accordance with section 733(e)(2)(A) of the Act, Commerce will instruct CBP to continue the suspension of liquidation of entries of subject merchandise, as described in Appendix I, produced and/or exported by LG Chem or companies covered by the all-others rate which entered, or were withdrawn from warehouse, for consumption on or after November 4, 2021, which is 90 days before the date of publication in the *Federal Register* of the affirmative *Preliminary Determination*.

Pursuant to section 735(c)(1)(B)(ii) of the Act and 19 CFR 351.210(d), upon the publication of this notice, we will instruct CBP to require a cash deposit for such entries of merchandise equal to the following: (1) the cash deposit rate for the respondents listed in the table above will be equal to the company-specific estimated weighted-average dumping margin determined in this final determination; (2) if the exporter is not a respondent identified above but the producer is, then the cash deposit rate will be equal to the company-specific estimated weighted-average dumping margin established for that producer of the subject merchandise; and (3) the cash deposit rate for all other producers and exporters will be equal to the all-others estimated weighted-average dumping margin listed in the table above. These suspension of liquidation instructions will remain in effect until further notice.

International Trade Commission Notification

In accordance with section 735(d) of the Act, we will notify the International Trade Commission (ITC) of our final affirmative determination of sales at LTFV. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms it will not disclose such information, either publicly or under an administrative

protective order (APO), without the written consent of the Assistant Secretary for Enforcement and Compliance.

Because Commerce's final determination in this investigation is affirmative, in accordance with section 735(b)(2) of the Act, the ITC will make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of subject merchandise from Korea no later than 45 days after our final determination. If the ITC determines that such injury does not exist, this proceeding will be terminated, and all cash deposits posted will be refunded. If the ITC determines that such injury does exist, Commerce will issue an antidumping duty order directing CBP to assess, upon further instruction by Commerce, antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the February 2, 2022, effective date of the suspension of liquidation.

Notification Regarding Administrative Protective Order

This notice serves as a reminder to the parties subject to an administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

Notification to Interested Parties

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act, and 19 CFR 351.210(c).

Dated: June 17, 2022.

Lisa W. Wang,
Assistant Secretary
for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The product covered by this investigation is commonly referred to as acrylonitrile butadiene rubber or nitrile rubber (AB Rubber). AB Rubber is a synthetic rubber produced by the emulsion polymerization of butadiene and acrylonitrile with or without the incorporation of a third component selected from methacrylic acid or isoprene. AB Rubber products that include a third component that is not methacrylic acid or isoprene are not covered by the scope. This scope covers AB Rubber in solid or non-aqueous liquid form. The scope also includes carboxylated AB Rubber.

Excluded from the scope of this investigation is AB Rubber in latex form (commonly classified under Harmonized Tariff Schedule of the United States (HTSUS) subheading 4002.51.0000). Latex AB Rubber is commonly either (a) acrylonitrile/butadiene polymer in latex form or (b) acrylonitrile/butadiene/methacrylic acid polymer in latex form. The broader definition of latex refers to a water emulsion of a synthetic rubber obtained by polymerization.

Also excluded from the scope of this investigation is: (a) AB Rubber containing additives incorporated during the compounding, mixing, molding, or use of AB Rubber comprising greater than twenty percent of the total weight of the product. Additives would include, but are not limited to, fillers (*e.g.* carbon black, silica, clay); reinforcement agents (*e.g.* fibers, carbon black, silica); vulcanization agents (*e.g.* sulfur, sulfur complexes, peroxide); or AB Rubber containing extension oils making up greater than forty percent of the total weight of the product. Such products would be generally classified under HTSUS subheading 4005; (b) AB Rubber containing polyvinyl chloride (PVC) making up greater than twenty percent of total weight of the product; (c) hydrogenated AB Rubber (commonly referred to as HNBR) produced by subsequent dissolution and hydrogenation of AB Rubber; (d) reactive liquid polymers containing acrylonitrile and butadiene with amine, epoxy, carboxyl or methacrylate vinyl chemical functionality.

Subject merchandise includes material matching the above description that has been finished, packaged, or otherwise processed in a third country, including by modifying physical form or packaging with another product, or performing any other finishing, packaging, or processing that would not otherwise remove the merchandise from the scope of the investigation if performed in the country of manufacture of the AB Rubber.

The merchandise subject to this investigation is classified in the HTSUS at subheading 4002.59.0000. While the HTSUS subheading numbers are provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

Appendix II

List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Use of Adverse Facts Available
- IV. Changes Since the *Preliminary Determination*
- V. Discussion of the Issues
 - Comment 1: Reclassification of Fumigation Expenses
 - Comment 2: Market Rate for Affiliated Input Purchases from Hanju Co. Ltd. (Hanju)
 - Comment 3: Short-Term Interest Income Offset
- VI. Recommendation

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